

## § 1.201

the protest and not adopted or specified by the Commission on its own motion, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the protestant.

(h) The procedure in such protest hearing shall be governed by the provisions of subpart B of this part, except as otherwise provided in this section.

(i) Pending hearing and decision, the effective date of the Commission's action to which protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service or unless the Commission affirmatively finds that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing.

(Sec. 7, 66 Stat. 715, as amended. See, in particular, sec. 4 (a) and (d), 74 Stat. 889, 892; 47 U.S.C. 309)

[28 FR 12415, Nov. 22, 1963, as amended at 28 FR 14503, Dec. 31, 1963]

## Subpart B—Hearing Proceedings

SOURCE: 28 FR 12425, Nov. 22, 1963, unless otherwise noted.

### GENERAL

#### § 1.201 Scope.

This subpart shall be applicable to the following cases which have been designated for hearing:

(a) Adjudication (as defined by the Administrative Procedure Act); and

(b) Rule making proceedings which are required by law to be made on the record after opportunity for a Commission hearing.

NOTE: For special provisions relating to AM broadcast station applications involving other North American countries see § 73.3570.

[28 FR 12425, Nov. 22, 1963, as amended at 51 FR 32088, Sept. 9, 1986]

#### § 1.202 Official reporter; transcript.

The Commission will designate from time to time an official reporter for the recording and transcribing of hear-

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ing proceedings. The transcript of the testimony taken, or argument had, at any hearing will not be furnished by the Commission, but will be open to inspection under § 0.453(a)(1) of this chapter. Copies of such transcript, if desired, may be obtained from the official reporter upon payment of the charges therefor.

(5 U.S.C. 556)

[32 FR 20861, Dec. 28, 1967]

#### § 1.203 The record.

The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision. Where any decision rests on official notice of a material fact not appearing in the record, any party shall on timely request be afforded an opportunity to show the contrary.

(5 U.S.C. 556)

#### § 1.204 Pleadings; definition.

As used in this subpart, the term *pleading* means any written notice, motion, petition, request, opposition, reply, brief, proposed findings, exceptions, memorandum of law, or other paper filed with the Commission in a hearing proceeding. It does not include exhibits or documents offered in evidence. See § 1.356.

[29 FR 8219, June 30, 1964]

#### § 1.205 Continuances and extensions.

Continuances of any proceeding or hearing and extensions of time for making any filing or performing any act required or allowed to be done within a specified time may be granted by the Commission or the presiding officer upon motion for good cause shown, unless the time for performance or filing is limited by statute.

#### § 1.207 Interlocutory matters, reconsideration and review; cross references.

(a) Rules governing interlocutory pleadings in hearing proceedings are set forth in §§ 1.291 through 1.298.

(b) Rules governing appeal from rulings made by the presiding officer are set forth as §§ 1.301 and 1.302.